United Nations S/2005/108

Security Council

Distr.: General
28 February 2005

Original: English

Letter dated 23 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 16 December 2004 (S/2004/1004). The Counter-Terrorism Committee has received the attached fifth report from El Salvador submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: Spanish]

Letter dated 15 February 2005 from the Charge d'affaires a. i. of the Permanent Mission of El Salvador to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to refer your letter dated 16 December 2004 addressed to the President of the Security Council, issued as document S/2004/1004, by which you stated that the Counter-Terrorism Committee had examined the fourth report submitted by the Government of El Salvador in accordance with paragraph 6 of resolution 1373 (2001) as well as the request to the Government of El Salvador to respond to the preliminary observations by 15 February 2005 in a fifth report.

In that regard, I have attached for your information and all relevant purposes the fifth report of the Republic of El Salvador submitted pursuant to resolution 1373 (2001) (see enclosure).

(*Signed*) Guillermo A. **Melendez Barahona**
Ambassador, Deputy Permanent Representative
Charge d'affaires a. i.

Enclosure

Fifth report of the Republic of El Salvador submitted pursuant to resolution 1373 (2001)

(Replies to the comments made by the Counter-Terrorism Committee of the United Nations Security Council 15 February 2005)

1. Implementation measures

1.1 Regarding the request for an update on the status of the proposed legislative actions contemplated by El Salvador, including the amendments to the Penal Code to implement fully all of the international anti-terrorism conventions which have been under consideration by GRICTE, El Salvador would like to provide the following information:

As the Committee is aware, in accordance with article 144 of the Constitution of the Republic, treaties signed and ratified by El Salvador, which include international agreements and conventions to combat terrorism, have the standing of domestic law in the Republic; their enforcement is therefore obligatory.

Furthermore, national criminal legislation in El Salvador includes the crime of terrorism, for example: Acts of Terrorism, article 343 of the Penal Code; Planning and Conspiracy to Commit Acts of Terrorism, article 344 of the Penal Code, Aggravated Homicide Resulting from Terrorism, article 129.2 of the Penal Code.

Nevertheless, the Inter-Agency Group against Terrorism (GRICTE) has been working on a draft counter-terrorism act, which is nearly complete pending final review by the Group, which will then be submitted for consideration by the heads of its member institutions. Once they have agreed, it will be submitted for the consideration of the Public Safety Committee of the Legislative Assembly for its analysis, and subsequent adoption by the plenary of the legislature. It is believed that the international agreements and conventions to combat terrorism will be enforced more effectively through the promulgation of this special counter-terrorism act, since its aim is to criminalize the actions covered by those instruments.

Regarding the Committee's request that El Salvador provide an outline as to how the contemplated amendments address each of the issues relating to financing and other forms of support for terrorism, El Salvador would like to respond as follows:

Under the draft counter-terrorism act a separate chapter is devoted to financing of terrorism as an independent offence, which includes the relevant regulations for preventive measures regarding financing, such as appropriate procedures for the freezing of assets whatever their source, as well as their release.

As for non-profit organizations, in the same way, special regulations are included to improve the monitoring of their activities in order to prevent the possibility of such criminal activities as financing of terrorism. However, consideration should be given to the possibility of including such measures in the counter-terrorism act or submitting them as a proposed amendment to the Associations and Non-profit Foundations Act already in force.

With regard to the regulation of alternative money transfer systems, because the system in itself is not regulated under national legislation, consideration has been given to including it in the amendments to the relevant laws.

1.2 Concerning the request for El Salvador to share any assessments or evaluations related to operational measures, in connection with the implementation of the resolution, that were carried out by any international or regional institution or organization, El Salvador would like to provide the following information:

Between 30 August and 3 September 2004, El Salvador was evaluated by the Caribbean Financial Action Task Force using methodology developed by the International Monetary Fund and the World Bank, which addressed money-laundering and financing of terrorism. Among the important sectors it thoroughly examined were the financial, legal and law enforcement or police sectors. They include the existing domestic and international legal instruments and their enforcement, and both public and private institutions are submitted to the evaluation exercise. The first draft of the report, according to GAFIC, will be sent in the second week of February 2005.

In addition, a series of evaluations took place in the facilities of the international airport and the seaport of Acajutla, conducted by the following international agencies:

- the International Civil Aviation Organization (ICAO). They inspected C.E.P.A., civil aviation and civil Aeronautics, reviewed systems for policing, airport infrastructure, inspection points and access control, along with other aspects of security and infrastructure.
- the Air Transport Safety Agency conducted an inspection in November 2004.
- the International Maritime Organization (IOM) carried out an inspection at all levels in July 2004, reviewed compliance with international maritime standards and certified the port of Acajutla.
- the International Maritime Organization also conducted an evaluation of compliance with international maritime safety standards in the port of Acajutla in November 2004.

The Superintendence of the financial system, in its efforts to combat terrorism, has developed the following: since 2001, it has a Special Audits Unit, whose duties include:

1. Verifying the observance of the Money-Laundering Act in the financial institutions monitored by the Superintendence.

2. Verifying and reporting to the Financial Investigations Unit of the Attorney-General's Office on irregular or suspect operations reported by the institutions under its supervision.

3. Issuing instructions to the bodies it regulates on money-laundering and financing of terrorism, inter alia for compliance with the 40 and 9 recommendations issued by the Financial Action Task Force (FATF).

4. Conducting evaluations on money-laundering in the comprehensive audits held on the bodies under its supervision.

5. Assisting the Financial Investigations Unit of the Attorney-General's Office by requesting information from the institutions under investigation on active or passive operations related to terrorist activities.

6. Providing training on topics related to money-laundering to officials of the Superintendence, enforcement officers of the bodies under supervision and other institutions.

Consequently, through this Unit and with the support of other areas of the Superintendence, it is possible to maintain closer supervision, thus helping to protect our financial system in the area of money-laundering and financing of terrorism.

The requests for legal assistance have been followed up by the Financial Investigation Unit of the Attorney-General's Office as described. The Office instructed it to request information from the institutions investigated by the Superintendence on active or passive operations conducted by individuals appearing on the United Nations list of those involved in terrorist activities.

As for the obligation to report or freeze accounts or economic resources held by terrorist groups or individuals or that finance acts of terrorism, it must be clarified that by law, financial institutions cannot freeze bank accounts or funds automatically, but only by express written order from the Attorney-General's Office, Financial Investigations Unit or the court with jurisdiction, based on articles 180 and following of the Code of Criminal Procedure and United Nations Security Council resolution 1373 (2001).

2. Assistance and guidance

As noted by the Counter-Terrorism Committee, El Salvador has been in contact with the United Nations Office on Drugs and Crime. As a result, a seminar on terrorism has recently been held in San Salvador, led by the experts Dr. Ignacio Maria Curia and Juan Manuel Gramajo, both members of that Office, and Dr. Fernanda Lombardi, of CICTE-OEA. As part of that seminar, the aforementioned draft counter-terrorism act was analysed, with very useful and satisfactory results.